

Office of the Secretary of Transportation

§ 40.33

agency, you must use the form and instructions at appendix H to part 40. You must submit the MIS report in accordance with rule requirements (*e.g.*, dates for submission; selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

[68 FR 43952, July 25, 2003]

§ 40.27 May an employer require an employee to sign a consent or release in connection with the DOT drug and alcohol testing program?

No, as an employer, you must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO and SAP services).

[66 FR 41950, Aug. 9, 2001]

§ 40.29 Where is other information on employer responsibilities found in this regulation?

You can find other information on the responsibilities of employers in the following sections of this part:

- § 40.3—Definition.
- § 40.35—Information about DERs that employers must provide collectors.
- § 40.45—Modifying CCFs, Use of foreign-language CCFs.
- § 40.47—Use of non-Federal forms for DOT tests or Federal CCFs for non-DOT tests.
- § 40.67—Requirements for direct observation.
- §§ 40.103–40.105—Blind specimen requirements.
- § 40.173—Responsibility to ensure test of split specimen.
- § 40.193—Action in “shy bladder” situations.
- § 40.197—Actions following report of a dilute specimen.
- § 40.207—Actions following a report of a cancelled drug test.
- § 40.209—Actions following and consequences of non-fatal flaws in drug tests.
- § 40.215—Information about DERs that employers must provide BATs and STTs.
- § 40.225—Modifying ATFs; use of foreign-language ATFs.
- § 40.227—Use of non-DOT forms for DOT tests or DOT ATFs for non-DOT tests.
- § 40.235 (c) and (d)—responsibility to follow instructions for ASDs.
- § 40.255 (b)—receipt and storage of alcohol test information.
- § 40.265 (c)–(e)—actions in “shy lung” situations.
- § 40.267—Cancellation of alcohol tests.

§ 40.271—Actions in “correctable flaw” situations in alcohol tests.

§ 40.273—Actions following cancelled tests in alcohol tests.

§ 40.275—Actions in “non-fatal flaw” situations in alcohol tests.

§§ 40.287–40.289—Responsibilities concerning SAP services.

§§ 40.295–40.297—Prohibition on seeking second SAP evaluation or changing SAP recommendation.

§ 40.303—Responsibilities concerning aftercare recommendations.

§ 40.305—Responsibilities concerning return-to-duty decision.

§ 40.309—Responsibilities concerning follow-up tests.

§ 40.321—General confidentiality requirement.

§ 40.323—Release of confidential information in litigation.

§ 40.331—Other circumstances for the release of confidential information.

§ 40.333—Record retention requirements.

§ 40.345—Choice of who reports drug testing information to employers.

[65 FR 79526, Dec. 19, 2000. Redesignated at 66 FR 41950, Aug. 9, 2001]

Subpart C—Urine Collection Personnel

§ 40.31 Who may collect urine specimens for DOT drug testing?

(a) Collectors meeting the requirements of this subpart are the only persons authorized to collect urine specimens for DOT drug testing.

(b) A collector must meet training requirements of § 40.33.

(c) As the immediate supervisor of an employee being tested, you may not act as the collector when that employee is tested, unless no other collector is available and you are permitted to do so under DOT agency drug and alcohol regulations.

(d) You must not act as the collector for the employee being tested if you work for a HHS-certified laboratory (*e.g.*, as a technician or accessioner) and could link the employee with a urine specimen, drug testing result, or laboratory report.

§ 40.33 What training requirements must a collector meet?

To be permitted to act as a collector in the DOT drug testing program, you must meet each of the requirements of this section: